

## Environmental Protection Agency

## § 124.6

(e) When EPA is the permitting authority, all draft permits (including notices of intent to terminate) prepared under this section shall be based on the administrative record as defined in § 124.9.

(f) (*Applicable to State programs, see § 233.26 (404).*) Any request by the permittee for modification to an existing 404 permit (other than a request for a minor modification as defined in § 233.16 (404)) shall be treated as a permit application and shall be processed in accordance with all requirements of § 124.3.

(g)(1) (Reserved for PSD Modification Provisions).

(2) PSD permits may be terminated only by rescission under § 52.21(w) or by automatic expiration under § 52.21(r). Applications for rescission shall be processed under § 52.21(w) and are not subject to this part.

[48 FR 14264, Apr. 1, 1983, as amended at 53 FR 37934, Sept. 28, 1988; 54 FR 18785, May 2, 1989; 57 FR 60129, Dec. 18, 1992; 65 FR 30910, May 15, 2000; 70 FR 53449, Sept. 8, 2005]

### § 124.6 Draft permits.

(a) (*Applicable to State programs, see §§ 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).*) Once an application is complete, the Director shall tentatively decide whether to prepare a draft permit (except in the case of State section 404 permits for which no draft permit is required under § 233.39) or to deny the application.

(b) If the Director tentatively decides to deny the permit application, he or she shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit prepared under this section. See § 124.6(e). If the Director's final decision (§ 124.15) is that the tentative decision to deny the permit application was incorrect, he or she shall withdraw the notice of intent to deny and proceed to prepare a draft permit under paragraph (d) of this section.

(c) (*Applicable to State programs, see §§ 123.25 (NPDES) and 233.26 (404).*) If the Director tentatively decides to issue an NPDES or 404 general permit, he or she shall prepare a draft general permit under paragraph (d) of this section.

(d) (*Applicable to State programs, see §§ 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).*) If the Director decides to prepare a draft permit, he or she shall prepare a draft permit that contains the following information:

(1) All conditions under §§ 122.41 and 122.43 (NPDES), 144.51 and 144.42 (UIC), 233.7 and 233.8 (404, or 270.30 and 270.32 (RCRA) (except for PSD permits));

(2) All compliance schedules under §§ 122.47 (NPDES), 144.53 (UIC), 233.10 (404), or 270.33 (RCRA) (except for PSD permits);

(3) All monitoring requirements under §§ 122.48 (NPDES), 144.54 (UIC), 233.11 (404), or 270.31 (RCRA) (except for PSD permits); and

(4) For:

(i) RCRA permits, standards for treatment, storage, and/or disposal and other permit conditions under § 270.30;

(ii) UIC permits, permit conditions under § 144.52;

(iii) PSD permits, permit conditions under 40 CFR § 52.21;

(iv) 404 permits, permit conditions under §§ 233.7 and 233.8;

(v) NPDES permits, effluent limitations, standards, prohibitions, standards for sewage sludge use or disposal, and conditions under §§ 122.41, 122.42, and 122.44, including when applicable any conditions certified by a State agency under § 124.55, and all variances that are to be included under § 124.63.

(e) (*Applicable to State programs, see §§ 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).*) All draft permits prepared by EPA under this section shall be accompanied by a statement of basis (§ 124.7) or fact sheet (§ 124.8), and shall be based on the administrative record (§ 124.9), publicly noticed (§ 124.10) and made available for public comment (§ 124.11). The Regional Administrator shall give notice of opportunity for a public hearing (§ 124.12), issue a final decision (§ 124.15) and respond to comments (§ 124.17). For RCRA, UIC or PSD permits, an appeal may be taken under § 124.19 and, for NPDES permits, an appeal may be taken under § 124.74. Draft permits prepared by a State shall be accompanied by a fact sheet if required under § 124.8.

[48 FR 14264, Apr. 1, 1983, as amended at 54 FR 18785, May 2, 1989; 65 FR 30910, May 15, 2000]